

1 BEFORE THE ARIZONA MEDICAL BOARD

2 In the Matter of

3 **Stephen M. Kurtin, M.D.**

4 Holder of License No. 31820
5 For the Practice of Allopathic Medicine
6 In the State of Arizona

Case No. MD-13-1216A

**ORDER FOR LETTER OF REPRIMAND
AND CONSENT TO THE SAME**

7 Stephen M. Kurtin, M.D. ("Respondent"), elects to permanently waive any right to a
8 hearing and appeal with respect to this Order for Letter of Reprimand and Consent to the
9 Same; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the
10 entry of this Order by the Board.

11 **FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of license number 31820 for the practice of
15 allopathic medicine in the State of Arizona.

16 3. The Board initiated case number MD-13-1216A after receiving notification of
17 a malpractice settlement arising out of Respondent's care and treatment of a 5 year-old
18 female patient ("TS").

19 4. On August 26, 2006, TS presented to Respondent in the emergency room
20 after having sustained a closed, Grade III, displaced supracondylar humerus fracture.
21 Respondent performed a closed reduction and percutaneous pinning of the fracture
22 without complications. At the end of the procedure, Respondent placed TS in a fiberglass,
23 univalved cast to allow for swelling. On discharge, TS had normal sensation, but little
24 motion of her fingers, which Respondent attributed to the sedation and pain medication.
25

1 5. On September 1, 2006, TS returned to Respondent with a low grade fever
2 and pain. Respondent noted that TS had poor active finger range of motion. Respondent
3 spread the cast univalve which provided TS with some relief. Five days later, Respondent
4 saw TS again in the ER and removed the cast due to complaints of numbness and
5 decreased finger motion. Respondent noted decreased hand sensation and decreased
6 active motion, and diagnosed TS with a possible neuropraxia since at both exams, TS had
7 soft compartments.

8 6. On September 18, 2006, TS was seen, on Respondent's referral, by a
9 second pediatric orthopedist who noted nerve palsies affecting all three nerves and TS
10 began therapy to improve hand function.

11 7. On March 20, 2007, TS was diagnosed with Volkmann's ischemic
12 contracture by a different physician and although she was making progress in therapy, she
13 would never regain her full hand function. In 2010, TS was noted to have a flexion
14 contracture of the flexor digitorum profundus ("FDP") muscle of all fingers, full range of
15 motion of the thumb, and the ability to extend her fingers with her wrist flexed. At the time,
16 that same physician's impression was that TS had a Volkmann's ischemic contracture and
17 would require nerve decompression and tendon lengthenings.

18 8. The standard of care requires a physician to properly monitor and investigate
19 for compartment syndrome in a patient with postoperative immobilization consisting of a
20 fiberglass cast.

21 9. Respondent deviated from the standard of care by failing to remove the cast
22 when TS was seen on September 1, 2006 with increased pain.

10. The standard of care prior to discharging a patient with an elbow fracture requires a physician to verify that the patient has the ability to move her fingers well prior to discharge.

11. Respondent deviated from the standard of care by discharging TS with an elbow fracture prior to verifying that she was able to move her fingers well prior to discharge.

12. Respondent's actions, likely contributed to TS developing an Volkmann's ischemic contracture with permanent FDP contractures and loss of function.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(27)(q) ("[A]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.").

ORDER

IT IS HEREBY ORDERED THAT Respondent is issued a Letter of Reprimand.

DATED AND EFFECTIVE this 3rd day of December, 2014.

ARIZONA MEDICAL BOARD

By Patricia E. McSorley
Patricia E. McSorley,
Interim Acting Executive Director

CONSENT TO ENTRY OF ORDER

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. Respondent acknowledges and agrees that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

3. By consenting to this Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Order in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

4. The Order is not effective until approved by the Board and signed by its Executive Director.

5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

6. Upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke the consent to the entry of the Order. Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

1 7. This Order is a public record that will be publicly disseminated as a formal
2 disciplinary action of the Board and will be reported to the National Practitioner's Data
3 Bank and on the Board's web site as a disciplinary action.

4 8. If any part of the Order is later declared void or otherwise unenforceable, the
5 remainder of the Order in its entirety shall remain in force and effect.

6 9. If the Board does not adopt this Order, Respondent will not assert as a
7 defense that the Board's consideration of the Order constitutes bias, prejudice,
8 prejudgment or other similar defense.

9 10. Any violation of this Order constitutes unprofessional conduct and may result
10 in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[V]iolating a formal order, probation,
11 consent agreement or stipulation issued or entered into by the board or its executive
12 director under this chapter.") and 32-1451.

13
14 Stephen M. Kurtin
15 Stephen M. Kurtin, M.D.

DATED: 10/9/2014

16 EXECUTED COPY of the foregoing mailed
17 this 3rd day of December, 2014 to:

18 Paul J. Giancola
19 Snell & Wilmer L.L.P.
20 One Arizona Center
Phoenix, Arizona 85004-2202
Attorney for Respondent

21 ORIGINAL of the foregoing filed
22 this 3rd day of December, 2014 with:

23 Arizona Medical Board
24 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

25 Mary Baker
Arizona Medical Board Staff